

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF WYOMING

4 UNITED STATES OF AMERICA, DOCKET NO. 15-CR-136-F
5 Plaintiff,
6 vs.
7 J.C. CHRISTOPHER PULHAM, Cheyenne, Wyoming
8 December 11, 2015
9 Defendant. 1:03 p.m.

10
11 TRANSCRIPT OF CHANGE OF PLEA PROCEEDINGS
12 BEFORE THE HONORABLE NANCY D. FREUDENTHAL
13 CHIEF UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

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1 (Proceedings commenced 1:03 p.m., December 11, 2015.)

2 COURTROOM DEPUTY: In criminal matter Case
3 No. 15-CR-136-F, United States of America versus J.C.
4 Christopher Pulham, set today for a change of plea hearing.

5 Counsel, please state your appearances.

6 MR. ANDERSON: Jim Anderson on behalf of the United
7 States.

8 MR. BARRETT: Jim Barrett on behalf of Mr. Pulham.

9 THE COURT: Good afternoon, gentlemen.

10 Mr. Barrett, are we here in anticipation of a change
11 of plea?

12 MR. BARRETT: We are, Your Honor.

13 THE COURT: If you and your client would please step
14 forward, we will get him sworn in.

15 (Defendant sworn.)

16 THE COURT: Can you please state your name for the
17 record?

18 THE DEFENDANT: J.C. Christopher Pulham.

19 THE COURT: Mr. Pulham, I asked the courtroom deputy
20 to swear you in. I will have some questions to address with
21 you. It is important that you respond to my questions
22 truthfully. Failure to do so could result in later prosecution
23 for perjury or false swearing. Do you understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: How old are you?

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1 THE DEFENDANT: 43.

2 THE COURT: Where were you born?

3 THE DEFENDANT: Las Vegas, Nevada.

4 THE COURT: How far did you go in school?

5 THE DEFENDANT: I have my GED and attended a semester
6 at a college.

7 THE COURT: Do you have a trade or occupation?

8 THE DEFENDANT: I'm currently employed at a hotel.

9 THE COURT: Have you been treated recently for drug
10 addiction or mental illness of any kind?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Are you under the influence of alcohol or
13 any drug?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: Are you under the care of a doctor or
16 taking any prescription medicine?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: I've -- have a copy of an Indictment which
19 is just a charging document. It's not evidence of guilt or
20 evidence of anything. Have you had an opportunity to read and
21 discuss the charging document with your attorney, Mr. Barrett?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And are you fully satisfied with the
24 advice and representation you've received to date from your
25 attorney?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Good. As we go along, if you have
3 questions for me, please speak up. Feel free to interrupt me.
4 You're not delaying these proceedings at all. This is the best
5 time to get your questions answered. If you need to talk to
6 your attorney, similarly, just interrupt. You can step away
7 from the microphone and have a private discussion.

8 Will you let me know if you have any questions or need
9 to talk to your attorney?

10 THE DEFENDANT: Yes, ma'am. Thank you.

11 THE COURT: Good. I also received and read a copy of
12 the plea agreement which I think either has been filed or will
13 be filed shortly.

14 Did you read and discuss this plea agreement with your
15 attorney before you signed it?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you believe that you understand the
18 terms of the plea agreement?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Are all the promises and representations
21 from the Government written down in the plea agreement?

22 THE DEFENDANT: I believe so, yes, ma'am.

23 THE COURT: Has anyone made any promise or assurance
24 to you that might be in your mind, in terms of affecting how
25 you plead in this case, that isn't written down in the plea

1 agreement? Any side deals or backroom deals?

2 THE DEFENDANT: No.

3 THE COURT: All right. Has anyone threatened you or
4 threatened anyone you care about to get you to sign the plea
5 agreement?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: Do you understand that I'm not a party to
8 the plea agreement? I haven't signed it. If there are
9 recommendations in the plea agreement that would affect
10 sentencing -- and this is a pretty bare bones plea agreement,
11 but if there are recommendations in there that in your mind you
12 are hoping to receive a lower sentence because of that
13 recommendation, I'm not bound to accept the recommendation. I
14 bring these matters up, really, for illustration to talk about
15 worst-case scenario, not to suggest that the worst-case
16 scenario is likely to play out.

17 THE DEFENDANT: I understand that.

18 THE COURT: But if I don't accept a recommendation,
19 even something jointly by the parties, that could drive the
20 sentence higher than what you might expect or hope for. Just
21 because you get a sentence that's harsher than what you hope
22 won't give you an opportunity to withdraw a guilty plea and go
23 back to a plea of not guilty, if I conclude it is a knowing and
24 voluntary plea. Do you understand that?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Any questions so far?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Mr. Barrett, were all formal plea offers
4 from the Government communicated to your client?

5 MR. BARRETT: They were, Your Honor.

6 THE COURT: I can't remember -- I probably have asked
7 this, but has anyone threatened you or threatened anyone that
8 you care about to get you to sign the plea agreement?

9 THE DEFENDANT: No, ma'am.

10 THE COURT: All right. Let me talk about the
11 consequences of considering a guilty plea and pleading guilty.
12 Our focus is on Count 1 through this discussion that we will
13 have today. Under the plea agreement at sentencing if things
14 go as expected, we can anticipate the Government would move to
15 dismiss Count 2 because they've agreed to do that in the plea
16 agreement.

17 So we're going to set Count 2 aside and focus on Count
18 1 in terms of the consequences of choosing to plead guilty to
19 Count 1. That's ultimately your choice.

20 First and significantly, this is a felony offense that
21 we're here to address today. If I accept your guilty plea
22 today, you will be adjudged guilty of a felony and that will
23 have an immediate consequence. As an adjudged felon, you won't
24 be able to own or possess firearms or ammunition. You won't be
25 able to vote, serve on a jury or serve on a grand jury. You

1 won't be able to run for public office.

2 If you had been born outside the United States and not
3 here with legal status -- and I know you're a United States
4 citizen by birth, but if that had been otherwise, it would have
5 an important immigration consequence, or could. So I want to
6 flag that as well to give you a full impression of being
7 adjudged guilty of a felony.

8 Some felonies can also affect where you can live or
9 where you can work, depending upon the screening or
10 registration as a sex offender.

11 Do you understand that we're here to address a felony
12 offense?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: The next consequence of choosing to plead
15 guilty to a felony offense of possession of child pornography
16 is the possibility and, in fact, the likelihood of time in
17 prison. Most people who come to federal court are looking at
18 going into the Bureau of Prisons system. We have very few
19 probation cases in federal court. The range for time in
20 custody is from zero, no time, to as much as 20 years for an
21 offense such as this.

22 Do you understand that time in prison may be a result
23 of choosing to plead guilty to this offense?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: The next consequence is the possibility of

1 a fine. The fine range is quite large. It is from zero, no
2 fine, to as much as \$250,000.

3 Now, I don't impose fines people can't afford to pay,
4 so we're not really looking at that high fine range, but based
5 upon your financial circumstances or time in custody and the
6 ability to be employed while in custody, a fine may be a
7 consequence of choosing to plead guilty. I'll make my decision
8 at sentencing about whether a fine can be expected in this
9 case, and I will announce it at sentencing.

10 Monetary obligations are due immediately at
11 sentencing. Many people can't afford to pay their financial
12 obligations then, and they go on kind of a payment plan with
13 payments in custody and after custody as well until their
14 financial obligation is satisfied.

15 Do you understand that a fine may be a consequence of
16 choosing to plead guilty?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: The next consequence is time on
19 supervision. After you are released from custody, people go on
20 supervised release. That's why it is called supervised
21 release. It is after release. It is supervision under a
22 probation officer. The term of supervision is no less than
23 five years. The maximum term is a life term of supervision.

24 There will be conditions imposed on your term of
25 supervision. Typical conditions include reporting to the

1 probation officer. Some conditions include a search condition,
2 so if the probation officer believes you're in violation of
3 your conditions of supervision or possess contraband, the
4 probation officer can order a search.

5 For offenses such as possession of child pornography,
6 there are often restrictions on Internet-capable devices so
7 that we can effectively screen during the term of supervision.

8 We're not here today to decide the conditions, but I
9 talk about them in summary fashion by illustrating a few sample
10 conditions to impress upon you that the conditions can be and
11 are restrictive, and if you violate the conditions, you can be
12 arrested on a warrant, brought in to answer to the accusation
13 that you violated a condition.

14 If you violated, you can be sentenced to additional
15 time in custody with a new term of supervision to follow. So
16 it can be a bit of a revolving door for people that can't
17 succeed on supervision.

18 Do you have any questions about the supervised release
19 provision as I've explained it?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: Mr. Anderson.

22 MR. ANDERSON: If I might interrupt for a moment, Your
23 Honor, in regards to the consequences of the defendant's plea,
24 the plea agreement misstates the top end of the penalty in this
25 particular matter. The defendant was advised at arraignment

1 that he could be punished by up to 20 years of imprisonment.
2 That's the notification that's attached to the Indictment.
3 However, the plea agreement reflects a 10-year maximum sentence
4 and that's incorrect. It is a 20-year sentence that the
5 defendant could be sentenced to. I just wanted to put that on
6 the record.

7 THE COURT: Thank you.

8 MR. BARRETT: I believe the plea agreement also
9 indicates no minimum time of supervision, Your Honor.

10 MR. ANDERSON: And it is a five to life.

11 MR. BARRETT: And I've previously advised Mr. Pulham
12 as well that it is not less than five years.

13 THE COURT: All right. Do you have any confusion
14 about the discrepancy between what's in the plea agreement and
15 my advisements today?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: And again, if you've got any questions,
18 questions for your attorney or just need to chat with him, let
19 me know. You can step away, sit down, have a discussion. We
20 can take a break as well. All right?

21 THE DEFENDANT: Thank you, Your Honor.

22 THE COURT: Okay. So any questions about supervised
23 release?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: The next consequence is a \$100 special

1 assessment. This is assessed in federal court per count, and
2 so it would be a total of \$100 for this Count 1. That's due in
3 addition to any fine. It goes into a special fund for victims
4 of crime. Again, as a monetary obligation, it is due
5 immediately, but often it's paid over time.

6 Do you understand the \$100 special assessment?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: For offenses such as this, you'll be
9 required to register as a sex offender. That's a consequence
10 of this offense if you choose and/or are adjudged guilty of
11 this offense. That registration must remain current and you
12 must be registered in any jurisdiction in which you reside, are
13 employed or are a student.

14 Do you understand that you will be required to
15 register by federal law as well as by a condition on your
16 supervision?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Another consequence is the possibility of
19 restitution. These cases are thorny when restitution is
20 concerned because we've got children who -- whose images have
21 been captured and are prevalent on the Internet, and they often
22 feel revictimized when their images are out there and
23 additional people are viewing them. And so we may receive
24 restitution requests depending on whether there are any
25 identifiable victims in the images that you are alleged to have

1 possessed and whether those victims are on record seeking
2 restitution.

3 It's a bit thorny. We try to arrive at some
4 understanding or agreement or documentation as to why your
5 particular viewing is any more of a revictimization than the
6 worldwide and other viewers. So it can be difficult and
7 complicated. I'm not saying restitution will be requested or
8 even required, but I wanted to discuss that as a consequence
9 for offenses such as this. This consequence has surfaced and
10 will continue to surface until the law is better settled and/or
11 the victims' full restitution requests have been satisfied.

12 Do you understand that restitution may be -- other
13 than just another financial obligation may be a consequence of
14 choosing to plead guilty?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Any questions about the consequences as
17 I've explained them up till now?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Have you and your attorney discussed the
20 Federal Advisory Sentencing Guidelines and how they may apply
21 to you in this case?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Good. As you know, the guidelines weigh
24 two primary factors. The first one is the offense level. The
25 offense level is calculated by beginning with a base offense

1 level which is assigned to all offenses for possession of child
2 pornography and then that level can be enhanced based upon a
3 variety of factors.

4 The number of images is frequently an enhancement we
5 see here in federal court, particularly if we've got videos
6 because the videos are a collection of images and so the
7 numbers associated with videos can drive upward the count
8 pretty rapidly and result in an enhancement.

9 The ages of the victims can be an enhancement.
10 Whether there's sadistic conduct involved can be an
11 enhancement. So enhancements, particularly for child
12 pornography possession, really pile on.

13 Some enhancements by practice we don't apply, but it
14 is my job to correctly calculate that offense level and explain
15 if I won't accept a particular enhancement.

16 The other main consideration is your past criminal
17 history. That's usually much more straightforward. If you
18 have no countable convictions, you will be in the best criminal
19 history category, Category I. If you have countable
20 convictions that score against you, your Criminal History
21 Category could creep up accordingly. I don't know much about
22 you or the nature of the offense conduct at issue, so I can't
23 give you an estimate about how you might guideline for this
24 particular offense, considering your past criminal history.

25 Do you understand that?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: But do you understand that I must
3 correctly calculate the guidelines by offense level and
4 criminal history, announce the guideline range and consider
5 that guideline range in arriving at a sentence that's part of
6 the procedure that I use for sentencing? Do you understand
7 that?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: And I can depart or vary from the
10 guidelines to arrive at a sentence that's sufficient, but not
11 greater than necessary, to punish the offense conduct,
12 considering the history and characteristics of the defendant.
13 We often have departures or variances in these sorts of cases.

14 Again, focusing on the worst-case scenario, I can
15 depart or vary upward if I find reasons, again, based upon
16 certain statutory factors. They're largely the seriousness of
17 the offense and whether that's, in my mind, successfully
18 captured by the offense level and the history and
19 characteristics of the defendant. And in the worst-case
20 scenario, those considerations could result in a sentence that
21 is either higher than the low end or even higher than the
22 guideline range. Just because I impose a sentence that's
23 harsher than what you hope for won't give you a chance to go
24 back to a not guilty plea if I conclude that the guilty plea,
25 if you enter one today, is knowing and voluntary. Do you

1 understand that?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: If at the end of sentencing you believe
4 the sentence that I announce is harsh or wrong or unreasonable
5 or something sticks in your mind that you have a complaint
6 about, please talk to your attorney. He has a very short
7 period of time to file a Notice of Appeal. Through a Notice of
8 Appeal your attorney can get the best review of the decision I
9 make.

10 If you let that time expire, you might have certain
11 other ways to complain about the sentence, but not the best
12 review that a direct appeal can afford. So don't let
13 sentencing distract you from the decision about whether you
14 should talk to your attorney and get review. Do you
15 understand?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. Any questions up till now?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: At this time I want to talk about your
20 right to have this case heard in trial. Even though the
21 attorneys have indicated a change of plea, you haven't pled
22 guilty. You can, if you wish, have this case heard at trial;
23 put Government to its burden of proof, have the jury as finders
24 of fact. Let me talk about all these important constitutional
25 rights that afford you fair, speedy, public trial, testing the

1 Government's case to the fullest extent possible.

2 If this case went to trial, it would be a speedy,
3 public trial, so the Government would have to get its case
4 ready to go. There would be certain time excluded in
5 anticipation of a guilty plea, but if you don't plead guilty,
6 we'll just get this case back on the active docket, get it teed
7 up and ready to go to trial.

8 A jury would be called from around Wyoming to sit as
9 impartial judges of the facts of the case. Jury selection is
10 an important phase of the case, a phase in which you
11 participate through your attorney. We call 35 to 40 jurors or
12 potential jurors and seat them in the jury box to answer
13 questions on voir dire. We question jurors to probe into their
14 background and experiences to figure out if they have a bias or
15 prejudgment about this case or this type of case.

16 Perhaps they know witnesses or the attorneys and they
17 can't let their friendship -- keep their friendship from
18 coloring their view of the case. Maybe they have strong
19 opinions about the laws and they can't in good conscience apply
20 those laws and give the Government and you a fair trial.

21 Maybe they've had some experience in their life or
22 their family's life that has so affected them or colored their
23 judgment that, again, they can't put that out of their mind and
24 give you a fair trial or give the Government a fair trial.

25 These are the things we probe into. If we have

1 questions about their ability to render a fair and impartial
2 verdict, I excuse those potential jurors and replace them with
3 other prospective jurors and start that questioning all over
4 again.

5 I tell you you participate because your attorney has
6 the right to ask questions, probe into the same kind of
7 background and experience, again, looking for the potential for
8 bias or prejudgment. Your attorney can strike or excuse people
9 for no cause, just simply because you or your attorney suspect
10 that somebody might not be the best juror for this case or this
11 type of case. That's why we call so many people in to seat 12
12 plus an alternate, because we excuse so many in the jury
13 selection process, hoping, again, to have the best jury to
14 render a fair and impartial verdict, applying the law and the
15 facts as they find them from the evidence presented at trial
16 without bias or prejudgment.

17 Once we have that best jury, we will impanel them and
18 the next phase of the case starts.

19 The Government goes first in presenting evidence
20 because the Government has the burden of proof. That burden of
21 proof is proof beyond a reasonable doubt. That is a high
22 burden of proof. The Government may not meet its burden of
23 proof. It is a burden of proof as to every element of the
24 offense. You have no burden of proof. You don't have to show
25 you're not guilty. All you have to do is essentially have

1 your attorney argue that the Government has failed in meeting
2 its burden of proof.

3 Now, proof beyond a reasonable doubt is not proof
4 beyond all doubt, but the evidence, the testimony and the
5 exhibits must firmly convince the jury of your guilt before a
6 jury can return a verdict of guilty.

7 I say you have no burden of proof, and that also means
8 you have no obligation to take the stand and testify. You
9 don't have to help the Government in meeting its burden of
10 proof by pleading guilty or telling your side of the story, if
11 the case went to trial. You can stay silent, and I will
12 instruct the jury that they can't infer or conclude anything
13 simply because you don't take the witness stand.

14 You have the right to have your attorney present
15 throughout every course -- all phases of the trial as your
16 spokesperson and advocate. His job is to make arguments, make
17 objections to the evidence, confront, cross-examine witnesses,
18 again, with an eye toward raising that reasonable doubt.

19 You have the right to a unanimous verdict, so the jury
20 must deliberate collectively, but each one of them must decide
21 the case for himself or herself. They can't surrender that
22 judgment to another juror. So if one juror concludes the
23 Government has not met its burden of proof by proof beyond a
24 reasonable doubt, the jury can't return a verdict of guilty.

25 Do you understand these important constitutional

1 rights to take your case to trial?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Do you understand that if you go forward
4 with a guilty plea there is no jury that will be called. I am
5 the only judge here. I will have to judge the facts, so I need
6 to hear what happened here in this case which resulted in the
7 charges being brought. I can't take a guilty plea from someone
8 who is not, in fact, guilty.

9 Do you understand that?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Let's talk about the elements of the
12 offense because, again, whether it is today or during the
13 course of a jury trial, the Government must meet these
14 elements. They must satisfy me in this proceeding, either with
15 statements from you or by their statements, that each of these
16 essential elements can be satisfied.

17 The first element is a time frame element. The
18 Government alleges that the offense of possession of child
19 pornography occurred on or about June 15th, 2015. The
20 Government may not prove this date precisely, but they must
21 have proof that the offense conduct occurred reasonably close
22 to this date.

23 The next element relates to you and the conduct as
24 charged, that you knowingly possessed material, namely, a 1
25 terabyte Seagate hard drive which contained images and video

1 depicting prepubescent children engaged in sexually explicit
2 conduct.

3 And the last element is that the images and recordings
4 of child pornography on that drive were produced using the
5 materials from that drive which is a product of the People's
6 Republic of China because that drive wasn't manufactured here
7 in Wyoming. That drive was transported and affected interstate
8 commerce.

9 Do you understand these elements?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Mr. Barrett, how do you wish to proceed
12 with the factual basis?

13 MR. BARRETT: Mr. Pulham can provide the basis, Your
14 Honor.

15 THE COURT: All right. Mr. Pulham, in your own words,
16 why don't you tell me what -- both where you were -- that's
17 also an element. I need to know where you were because the
18 offense conduct has to occur here in the District of Wyoming --
19 where you were and what happened on June 16th, 2015, or around
20 that date that resulted in this charge being brought.

21 THE DEFENDANT: It was on or around that day and I was
22 in Wyoming. I was in Evanston, and I did have the material on
23 that particular hard drive, the Seagate, the 1 terabyte Seagate
24 hard drive, and that it did contain child pornography. And I'm
25 not sure how to --

1 THE COURT: In terms of the phrase "child
2 pornography," would you agree that you knew that the material
3 visually depicted children engaged in sexually explicit
4 behavior?

5 THE DEFENDANT: Yes, ma'am, I was aware of the
6 material on the hard drive.

7 THE COURT: I have the Prosecutor's Statement which
8 I've read. Mr. Barrett -- and you have no reason to believe
9 that this hard drive or the images were produced here in
10 Wyoming?

11 THE DEFENDANT: I don't believe so. I have no reason
12 to believe that, yes.

13 THE COURT: All right. Mr. Barrett, I would invite
14 any supplementation.

15 MR. BARRETT: I believe that's sufficient, Your Honor.

16 THE COURT: Mr. Anderson, supplementation.

17 MR. ANDERSON: The investigation revealed that the
18 defendant had been using a peer-to-peer software program to
19 obtain child pornography off the Internet. He would load the
20 material onto his hard drive where he would subsequently view
21 it. The images -- many of the images that he possessed
22 depicted children under the age of 12, or prepubescent children
23 and as the Court did note. The hard drive was manufactured in
24 another locale or another state besides the State of Wyoming.

25 I think that those are the essential facts. And

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1 Mr. Pulham, when questioned by the law enforcement, admitted to
2 those -- to those facts.

3 THE COURT: Would you agree that the images of
4 children were images of children who had not achieved puberty?

5 THE DEFENDANT: At least some of them were, yes.

6 THE COURT: All right. Are you ready for me to ask
7 you how you now plead?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: As to Count 1 in the Indictment in Docket
10 15-CR-136 which accuses you of possession of child pornography,
11 how do you now plead to that count, guilty or not guilty?

12 THE DEFENDANT: Guilty, Your Honor.

13 THE COURT: It is the finding of the Court in the case
14 of United States of America versus -- is it J. Christopher?

15 THE DEFENDANT: J.C. is my actual first name.

16 THE COURT: All right. Thank you. -- J.C.

17 Christopher Pulham that the defendant is fully competent and
18 capable of entering an informed plea; that he's aware of the
19 nature of the charge brought against him in Count 1 of the
20 Indictment and the consequences of a plea of guilty to that
21 charge in Count 1; and that his plea of guilty is a knowing and
22 voluntary plea supported by an independent basis of fact, your
23 own statements concerning the conduct on or around June 16th,
24 2015.

25 It's the Court's conclusion that those statements

1 satisfy each of the essential elements of the offense as
2 charged, and you're now adjudged guilty of this offense.

3 I'd like to set sentencing for 1:30 on February 19th.
4 Between now and February 19th, a Presentence Investigation will
5 be undertaken by an officer of the court. Mr. John Olive is
6 over here to your left. He may have some questions for you
7 after this proceeding concludes. He may also have some forms
8 for you to sign. You do have the right to have your attorney
9 present during questioning by the Presentence Investigation
10 officer.

11 In terms of the investigation itself, it covers such
12 topics as your background and upbringing, your marital status,
13 whether you have any dependents, your educational history, your
14 work history, your financial circumstances, issues with drug
15 use or abuse, any physical health issues, any mental health
16 issues. Your offense conduct may be further researched. Your
17 criminal history, if any, will be further researched. A
18 guideline calculation will be developed.

19 After the investigation is concluded, a draft report,
20 the draft Presentence Investigation Report, is written.
21 Mr. Olive will mail that to the attorneys or send it by e-mail
22 seeking comments or objections. Your attorney will talk to you
23 about that report. I encourage you to read your report
24 carefully, let Mr. Barrett know if you have questions or
25 concerns. He can make objections or seek clarification or

1 corrections to the report by submitting those back to the
2 probation officer, as can the Government.

3 Once that comment period is ended, a final report is
4 written. That final report goes to me and to the attorneys
5 again, and you'll have a chance to read that final report, see
6 how the comments or objections were addressed. The report will
7 have that guideline calculation in it, so you will have a
8 pretty solid sense of what the guideline sentencing range is.

9 At sentencing you do have the right to a timely
10 sentencing and it is a public sentencing, too, so the court --
11 we will be in this courtroom and the courtroom doors, as today,
12 will be open. So if you have friends or family that want to be
13 here with you, again for sentencing, they're more than welcome
14 to -- to be here.

15 At sentencing the process that I follow is I start
16 with that report and hear from the attorneys about whether
17 there were -- there are any issues still with this report; are
18 there factual issues or legal issues that still need to be
19 resolved. I will hear arguments on any of those and make my
20 decisions about any factual or legal issues that still might be
21 outstanding. Oftentimes those affect the guideline
22 calculation.

23 Once I've gone through that process and have all those
24 decisions made, I will put the guideline calculation on the
25 record. It may or may not be the same one that's in the

1 report, but I'll make that announcement the day of sentencing
2 so you will know what the -- what the sentencing range is based
3 upon my decisions.

4 After that I ask the attorneys what their position is
5 on what the sentence should be. Your attorney has the chance
6 to go first and last, so he can make his statement about what
7 he thinks the sentence should be. Then the Government makes
8 its statement and then your attorney can respond if there's
9 anything more to say based upon what the Government has had to
10 say.

11 After that, if there are family members who wish to be
12 heard, I will make time and invite them up to the main podium.
13 They need to come forward just so that I can hear them well and
14 the court reporter can take down their statements because the
15 audio is all run through the microphone system.

16 Sometimes family members aren't comfortable with that
17 or they can't be in attendance. Your attorney can collect
18 letters and give those to me, and I read the letters that I
19 receive from family, friends, victims, whomever is writing
20 concerning the sentencing.

21 After I have heard from anybody who wishes to be
22 heard, I'll invite you to make any statement you want to make.
23 You have the right to address me before sentence is decided, so
24 I encourage you to think about what, if anything, you would
25 like to say at sentencing. Some people write their statement

1 out and mail it to me because, again, they just don't feel
2 comfortable speaking in court. Other people take notes and
3 refer to those notes. Some people just speak from their heart
4 and say what they -- they think they -- what they think they
5 need to say or I should know. Some defendants don't have
6 anything more to say. I encourage you to think about what, if
7 anything, you want to say. Again, you're not required to
8 speak. Talk to your attorney. He will give you good advice
9 about that part of sentencing.

10 I do find often, though, that the defendants provide
11 insightful, good information for me to consider for sentencing.
12 So carefully weigh it, okay? You know, I don't punish people
13 who really don't have anything more to say; they feel like
14 their attorney has said what needed to be said or their letter
15 said it, but I just encourage you to think about it.

16 After I hear anything you wish to say, I'll make my
17 decision about what the sentence is, and I'll put that on the
18 record. That, then, is reduced to a writing called a Judgment
19 and Committal Order. That's the order that would be appealed,
20 depending on whether you've got complaints with what my
21 decision is.

22 Do you have any questions about the Presentence Report
23 or the Presentence Investigation as I've explained it to you?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: Do you have any questions about the

1 approach I take at sentencing?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: All right. I know this gentleman has been
4 at liberty, I suspect on bond with supervision. I think I -- I
5 heard from Ms. Danni that there are no issues with --
6 identified by the probation officer supervising Mr. Pulham --
7 unsecured bond with conditions.

8 The position of the Government?

9 MR. ANDERSON: This is not an offense that requires
10 detention after plea. We have no reason to believe that
11 Mr. Pulham has violated any of the terms and conditions of his
12 supervised pretrial release and do not object to his continued
13 release.

14 THE COURT: All right. Mr. Barrett.

15 MR. BARRETT: No objection to his continued release,
16 Your Honor.

17 THE COURT: All right. I will -- do you have any
18 issues or concerns with the current conditions of release?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Any questions about the -- you know, in
21 terms of the bond, that secures your attendance, so stay in
22 touch with your attorney. You do have the right to a timely
23 sentencing, but occasionally we move sentencings around. If we
24 have a jury trial, we might move you to the front of the week
25 or the Monday of the next week, and so we can tweak it a bit so

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CHANGE OF PLEA

28

1 that you're not right in the middle of a trial. So I encourage
2 you to stay in touch with your attorney as the process unfolds,
3 not only for the Presentence Report reviews, but to make sure,
4 where you will be traveling, particularly in February, that
5 there aren't any changes in the dates. Okay.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. Well, I'll order release on
8 the same terms and conditions set forward by Judge Rankin in
9 the pretrial process.

10 Is there anything else we should address before we
11 conclude the change of plea?

12 MR. BARRETT: Nothing I'm aware of, Your Honor.

13 MR. ANDERSON: No, Your Honor. Thank you.

14 THE COURT: All right. Good luck to you, Mr. Pulham.

15 THE DEFENDANT: Thank you, Your Honor.

16 THE COURT: I'll see you back toward the middle of
17 February for conclusion. Thank you. We will stand in recess
18 until call.

19 (Proceedings concluded 2:21 p.m., December 11, 2015.)

C E R T I F I C A T E

I, JANET DAVIS, Federal Official Court Reporter for the United States District Court for the District of Wyoming, a Registered Diplomat Reporter and Federal Certified Realtime Reporter, do hereby certify that I reported by machine shorthand the foregoing proceedings contained herein on the aforementioned subject on the date herein set forth, and that the foregoing pages constitute a full, true and correct transcript.

Dated this 31st day of March, 2016.

/s/ Janet Davis

JANET DAVIS
Registered Diplomat Reporter
Federal Certified Realtime Reporter
United States Court Reporter